

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

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Paper 83

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

JAMES ROBERT BREWER  
Junior Party

(Patent 5,735,346),

v.

MICHAEL D. HERSHBERGER

Senior Party  
(Application 09/179,143).

Patent Interference No. 104,575

Before SPIEGEL, GARDNER-LANE and MEDLEY, Administrative Patent Judges.

MEDLEY, Administrative Patent Judge.

JUDGMENT PURSUANT TO 37 CFR § 1.662

On January 14, 2002, the board received from Brewer a paper entitled "NOTICE UNDER 37 CFR 1.602(c); CONCESSION OF PRIORITY; AND REQUEST FOR ADVERSE JUDGMENT" (Paper 81).

Upon consideration of Brewer request for adverse judgment

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PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

(Paper 81), it is

ORDERED that judgment on priority as to Count 1 (Paper 1, page 49), the sole count in the interference is awarded against junior party JAMES ROBERT BREWER.

FURTHER ORDERED that junior party JAMES ROBERT BREWER is not entitled to a patent containing claims 1-28 (corresponding to the Count) of U.S. Patent 5,735,346, filed 29 April 1996.

FURTHER ORDERED that a copy of this paper shall be made of record in files of application 09/179,143 and U.S. Patent 5,735,346.

FURTHER ORDERED that if there is a settlement agreement, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661.

*Carol A. Spiegel*

CAROL A. SPIEGEL  
Administrative Patent Judge

*Sally Gardner-Lane*

SALLY GARDNER-LANE  
Administrative Patent Judge

*Sally C. Medley*

SALLY C. MEDLEY  
Administrative Patent Judge

BOARD OF PATENT  
APPEALS AND  
INTERFERENCES

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